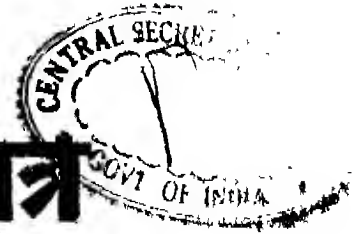




भारत का राजपत्र The Gazette of India



असाधारण
EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती हैं जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 25th July, 1978:—

BILL No. 110 OF 1978 *

A Bill to provide for the development under the control of the Union of the coconut industry and for matters connected therewith.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. (1) This Act may be called the Coconut Development Board Act, 1978.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. It is hereby declared that it is expedient in the public interest that the Union should take under its control the coconut industry.

3. In this Act, unless the context otherwise requires,—

(a) "Board" means the Coconut Development Board established under section 4;

(b) "Chairman" means the Chairman of the Board;

(c) "coconut" means the fruit of coconut palm and includes green coconut, ripe coconut and copra.

Short title,
extent and
com-
mence-
ment.

Declara-
tion as to
expediency
of control
by the
Union.

Defini-
tions.

Explanation.—"Coconut palm" means the coconut tree, *Cocos Nucifera Linn*;

(d) "coconut industry" does not include—

(i) coir industry; or

(ii) an industry from which products (including by-products) out of coconut oil are manufactured;

(e) "member" means a member of the Board and includes the Chairman;

(f) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

THE COCONUT DEVELOPMENT BOARD

Establishment and constitution of the Board.

4. (1) With effect from such date as the Central Government may, by notification in the Official Gazette appoint in this behalf, there shall be established for the purposes of this Act, a Board to be called the Coconut Development Board.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The head office of the Board shall be at such place as the Central Government may, by notification in the Official Gazette, specify.

(4) The Board shall consist of the following members, namely:—

(a) a Chairman, to be appointed by the Central Government;

(b) the Agriculture Commissioner to the Government of India, *ex officio*;

(c) the Director, Central Plantation Crops Research Institute (Indian Council of Agricultural Research) *ex officio*;

(d) the Chairman of the Coir Board constituted under section 4 of the Coir Industry Act, 1953, *ex officio*;

45 of 1953.

(e) three members to be appointed by the Central Government to represent respectively the Ministries of the Central Government dealing with—

(i) Revenue;

(ii) Industry; and

(iii) Civil Supplies and Co-operation;

(f) three members to be appointed by the Central Government one each to represent the Governments of the States of Kerala, Tamil Nadu and Karnataka, being States wherein coconut is grown on a large scale;

(g) three members to be appointed by the Central Government by rotation in the alphabetical order to represent the Governments of the States of Andhra Pradesh, Assam, Maharashtra, Orissa and West Bengal and the Union territories of the Andaman and Nicobar Islands, Goa, Daman and Diu and Lakshadweep;

(h) three members to be appointed by the Central Government one each to represent the coconut growers of the States of Kerala, Tamil Nadu and Karnataka;

(i) one member to be appointed by the Central Government to represent the coconut processing industry:

Provided that every appointment under clauses (f) and (g) shall be made on the recommendation of the State Government or, as the case may be, of the Union territory concerned.

(5) The Board shall elect, from amongst its members, a Vice-Chairman who shall exercise such of the powers and perform such of the functions of the Chairman as may be prescribed or as may be delegated to him by the Chairman.

(6) The term of office of the members and the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by, the members shall be such as may be prescribed.

(7) Any officer of the Central Government, not being a member of the Board, when deputed by that Government in this behalf, shall have the right to attend the meetings of the Board and take part in the proceedings thereof but shall not be entitled to vote.

(8) The Board may associate with itself in such manner, subject to such conditions and for such purposes as may be prescribed, any person whose assistance or advice it may desire in complying with any of the provisions of this Act and a person so associated shall have the right to take part in the discussions of the Board relevant to the purposes for which he has been associated but shall not have the right to vote and shall be entitled to receive such allowances or fees as may be fixed by the Central Government.

(9) No act or proceeding of the Board or any committee appointed by it under section 9 shall be invalidated merely by reason of—

(a) any vacancy in, or any defect in the constitution of, or of or such committee; or

(b) any defect in the appointment of a person acting as a member of the Board or such committee; or

(c) any irregularity in the procedure of the Board or such committee not affecting the merits of the case.

(10) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations made by the Board under this Act.

5. (1) The Chairman shall be entitled to such salary and allowances and shall be subject to such conditions of service in respect of leave, pension, provident fund and other matters as may, from time to time, be fixed by the Central Government.

(2) The members of the Board shall receive such allowances as may be fixed by the Central Government.

6. A member, other than an *ex officio* member, may resign his office by giving notice thereof in writing to the Central Government and on such resignation being accepted, he shall be deemed to have vacated his office.

Salary and allowances and other conditions of service of Chairman and allowances of members.

Resig. nation of members.

Officers of
the Board
and other
staff.

7. (1) The Chairman shall be the chief executive of the Board and shall exercise such powers and perform such duties as may be prescribed.

(2) The Central Government shall appoint a Chief Coconut Development Officer to exercise such powers and perform such duties as may be prescribed or as may be delegated to him by the Chairman.

(3) The Chief Coconut Development Officer appointed under sub-section (2) shall have the right to attend the meetings of the Board and its committees appointed under section 9 and take part in the proceedings thereof but shall not be entitled to vote.

(4) The Central Government shall appoint a Secretary to the Board who shall exercise such powers and perform such duties as may be prescribed or as may be delegated to him by the Board or the Chairman.

(5) The Chief Coconut Development Officer and the Secretary shall be entitled to such salary and allowances and shall be subject to such conditions of service in respect of leave, pension, provident fund and other matters as may, from time to time, be fixed by the Central Government.

(6) Subject to such control and restrictions as may be prescribed, the Board may appoint such other officers and employees as may be necessary for the efficient performance of its functions and the method of appointment, the conditions of service and the scales of pay and allowances of such other officers and employees of the Board shall be such as may be provided by the Board by regulations made under this Act.

(7) The Chairman, the Chief Coconut Development Officer, the Secretary and other officers and employees of the Board shall not undertake any work unconnected with their duties under this Act except with the permission of the Central Government.

Special
provision
for trans-
fer of
employees
to the
Board.

8. (1) On the establishment of the Board, it shall be lawful for the Central Government to transfer to the Board, by order, and with effect from such date or dates as may be specified in the order, any officer or other employee holding office as such in the Directorate of Coconut Development immediately before the date on which the Board is established:

Provided that the scale of pay of the post to which such officer or other employee is transferred shall not be lower than the scale of pay of the post he was holding immediately before such transfer and the other terms and conditions of service (including pension, leave, provident fund and medical benefits) of the post to which he is transferred shall not be less favourable than the terms and conditions of service in relation to the post held by him immediately before such transfer:

Provided further that if, immediately before the date of his transfer, any such officer or other employee is officiating in a higher post under the Central Government either in a leave vacancy or in any vacancy of specified duration, his pay and other allowances, if any, on transfer, shall be protected for the unexpired period of such vacancy and thereafter he shall be entitled to the scale of pay applicable to the post under the Central Government to which he would have reverted.

(2) Before any order is issued under sub-section (1), all officers and other employees of the Directorate of Coconut Development shall be given an option in such form as may be prescribed, and within such time as may be specified in that behalf by the Central Government, to express their willingness or otherwise to become employees of the Board and such option once exercised shall be final:

Provided that no order under sub-section (1) shall be made in relation to any officer or other employee of the Directorate of Coconut Development who has intimated his intention of not becoming an employee of the Board within the time specified in that behalf:

Provided further that such of the persons employed by the Central Government in the said Directorate, who do not express, within the time specified in that behalf, their intention of becoming the employees of the Board, shall be dealt with in the same manner and in accordance with the same rules as would apply to the employees of the Central Government in the event of the reduction of the strength of the Department in which such persons have been employed.

(3) An officer or other employee transferred by an order made under sub-section (1) shall, on and from the date of transfer, cease to be an employee of the Central Government and become an officer or other employee of the Board with such designation as the Board may determine and shall, subject to the provisions of the first and second provisos to sub-section (1), be governed by the regulations made by the Board under this Act in respect of remuneration and other conditions of service (including pension, leave, provident fund and medical benefits) and shall continue to be an officer or other employee of the Board unless and until his employment is duly terminated by the Board:

Provided that till such time as the regulations referred to above governing the conditions of service of its officers or other employees are framed by the Board, the relevant rules and orders framed by the Central Government shall continue to be applicable to such officers or other employees.

(4) If a question arises whether the terms and conditions of service prescribed in the regulations framed by the Board in respect of any matter, including remuneration, pension, leave, provident fund and medical benefits, are less favourable than those attached to the post held by an officer or other employee immediately before his transfer to the Board, the decision of the Central Government in the matter shall be final.

9. (1) The Board may appoint such committees as may be necessary for the efficient discharge of its duties and performance of its functions under this Act. Committees of the Board.

(2) The Board shall have the power to co-opt as members of any committee appointed under sub-section (1) such number of persons who are not members of the Board as it may think fit and the persons so co-opted shall have the right to attend meetings of the committee and take part in its proceedings but shall not have the right to vote.

(3) The persons co-opted as members of a committee under sub-section (2) shall be entitled to receive such allowances or fees for attending meetings of the committee as may be fixed by the Central Government.

10. (1) It shall be the duty of the Board to promote, by such measures as it thinks fit, the development under the control of the Central Government of the coconut industry. Functions of the Board.

(2) Without prejudice to the generality of the provisions of sub-section (1), the measures referred to therein may provide for—

(a) adopting measures for the development of coconut industry so that farmers, particularly small farmers, may become participants

in, and beneficiaries of, the development and growth of coconut industry;

(b) recommending measures for improving the marketing of coconut and its products in India;

(c) imparting technical advice to any person who is engaged in the cultivation of coconut or the processing or marketing of coconut and its products;

(d) providing financial or other assistance for the development of high yielding coconut hybrids, adoption of improved methods of cultivation of coconut, modern technology for processing of coconut and extension of areas under coconut cultivation (including replanting) with a view to improving the growth of coconut industry;

(e) adopting such measures as may be practicable for assisting coconut growers to get incentive prices including recommending, as and when necessary, minimum and maximum prices for coconut and its products;

(f) recommending measures for regulating import and export of coconut and its products;

(g) collecting statistics from growers of coconut, dealers in coconut, manufacturers of coconut products and such other persons and institutions as may be prescribed, on any matter relating to coconut industry and publishing the statistics so collected or portions thereof or extracts therefrom;

(h) fixing grades, specifications and standards for coconut and its products;

(i) financing suitable schemes in consultation with the Central Government and the Governments of the States where coconut is grown on a large scale, so as to increase the production of coconut and to improve its quality and yield; and for this purpose evolving schemes for award of prizes or grant of incentives to growers of coconut and the manufacturers of its products and for providing marketing facilities for coconut and its products;

(j) assisting, encouraging, promoting or financing agricultural, technological, industrial or economic research on coconut and its products in such manner as the Board may deem fit by making use of available institutions;

(k) undertaking such publicity and publishing such periodicals, books or bulletins, on the research and development of coconut and its products, as may be found necessary;

(l) setting up of regional offices and other agencies for the promotion and development of production, grading and marketing of coconut and its products in coconut growing States and Union territories for the efficient discharge of the functions and objectives of the Board;

(m) such other measures as may, having regard to the purposes of this Act, be prescribed by the Central Government in consultation with the Governments of the States where coconut is grown on a large scale.

(3) The Board shall perform its functions under this section in accordance with, and subject to, such rules as may be made by the Central Government.

11. (1) The Central Government may, by notification in the Official Gazette and for reasons to be specified therein, direct that the Board shall be dissolved from such date and for such period as may be specified in the notification: Dissolution of the Board.

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Board to make representations against the proposed dissolution and shall consider the representations, if any, of the Board.

(2) When the Board is dissolved under the provisions of sub-section (1),—

(a) all members, notwithstanding that their term of office has not expired, shall, from the date of dissolution, vacate their offices as such members;

(b) all powers and duties of the Board shall, during the period of dissolution, be exercised and performed by such person or persons as the Central Government may appoint in this behalf and their remuneration shall be such as may be prescribed;

(c) all funds and other properties vested in the Board shall, during the period of dissolution, vest in the Central Government; and

(d) as soon as the period of dissolution expires, the Board shall be reconstituted in accordance with the provisions of this Act.

CHAPTER III

FINANCE, ACCOUNTS AND AUDIT

12. The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Board by way of grants or loans such sums of money as the Central Government may think fit for being utilised for the purposes of this Act. Grants and loans by the Central Government.

13. (1) There shall be formed a Fund to be called the Coconut Development Fund and there shall be credited thereto— Constitution of Coconut Development Fund.

(a) any sums of money which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide from and out of the proceeds of cess credited under section 4 of the Copra Cess Act, 1978, after deducting therefrom the expenses of collection of the cess and the amount, if any, refunded;

(b) any grants or loans granted by the Central Government for the purposes of this Act;

(c) any grants or loans that may be made by any person for the purposes of this Act including loans under section 14;

(d) any grants or donations from State Governments, voluntary organisations or other institutions:

Provided that no such grant, loan or donation shall be credited to the Fund except with the prior approval of the Central Government.

(2) The Fund shall be applied—

- (a) for meeting the cost of the measures referred to in section 10;
- (b) for meeting the salaries, allowances and other remuneration of the members, officers and other employees, as the case may be, of the Board;
- (c) for meeting the other administrative expenses of the Board and any other expenses authorised by or under this Act;
- (d) for repayment of any loans.

**Borrowing
powers
of the
Board.**

14. (1) The Board may, for the purposes of carrying out its functions under this Act, and with the previous approval of, and subject to the directions of the Central Government, borrow money from—

- (a) the public by the issue or sale of bonds or debentures or both, carrying interest at such rates as may be specified therein;
- (b) any bank or other institution;
- (c) such other authority, organisation or institution as may be approved by the Central Government in this behalf.

(2) The Central Government may guarantee the repayment of the monies borrowed by the Board under sub-section (1) and the payment of interest thereon and other incidental charges.

**Accounts
and
audit.**

15. (1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Board shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

CHAPTER IV

CONTROL BY CENTRAL GOVERNMENT

**Directions
by Cen-
tral Gov-
ernment.**

16. The Board shall carry out such directions as may be issued to it from time to time by the Central Government for the efficient administration of this Act.

17. (1) The Board shall furnish to the Central Government at such time and in such form and manner as may be prescribed or as the Central Government may direct, such returns and statements and such particulars in regard to any proposed or existing programme for the promotion and development of the coconut industry, as the Central Government may, from time to time, require.

Returns
and
reports.

(2) The Board shall furnish a programme of its activities for each financial year to the Central Government for their information and directions, if any.

(3) Without prejudice to the provisions of sub-section (1), the Board shall, as soon as possible, after the end of each financial year, submit to the Central Government a report in such form and before such date, as may be prescribed, giving a true and full account of its activities, policy and programmes during the previous financial year.

(4) A copy of the report received under sub-section (3) shall be laid, as soon as may be, after it is received, before each House of Parliament.

CHAPTER V

MISCELLANEOUS

18. No suit, prosecution or other legal proceeding shall lie against the Central Government, or the Board or any committee appointed by it, or any member of the Board or such committee, or any officer or other employee of the Central Government or of the Board or any other person authorised by the Central Government or the Board, for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Protec-
tion of
action
taken in
good
faith.

19. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

Power
to
make
rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the powers which may be exercised and functions which may be performed by the Vice-Chairman of the Board under sub-section (5) of section 4;

(b) the term of office of the members, the manner of filling vacancies among, and the procedure to be followed in the discharge of their functions by, the members, under sub-section (6) of section 4;

(c) the manner in which and the purposes for which any person may be associated by the Board under sub-section (8) of section 4;

(d) the powers which may be exercised and the duties which may be performed by the Chairman as the chief executive of the Board under sub-section (1) of section 7;

(e) the powers which may be exercised and the duties which may be performed by the Chief Coconut Development Officer of the Board under sub-section (2) of section 7;

(f) the powers which may be exercised and the duties which may be performed by the Secretary of the Board under sub-section (4) of section 7;

(g) the control and restrictions subject to which officers and other employees may be appointed by the Board under sub-section (6) of section 7;

(h) the form in which option may be given by the officers and other employees of the Directorate of Coconut Development under sub-section (2) of section 8;

(i) the collection of statistics in respect of any matter relating to coconut industry under clause (g) of sub-section (2) of section 10;

(j) the matters in respect of which the Board may undertake measures in the discharge of its functions under clause (m) of sub-section (2) of section 10;

(k) the remuneration and other allowances payable to the person or persons referred to in clause (b) of sub-section (2) of section 11;

(l) the form in which the accounts of the Board shall be maintained under sub-section (1) of section 15;

(m) the form and manner in which and the time at which the Board may furnish returns and reports to the Central Government under sub-section (1) of section 17;

(n) the form in which and the date before which the Board shall furnish to the Central Government the report of its activities and programmes under sub-section (3) of section 17;

(o) any other matter which has to be, or may be, prescribed by rules under this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Powers to
make
regulations.

20. (1) The Board may, with the previous sanction of the Central Government, by notification in the Official Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:—

(a) the times and places at which meetings of the Board or any committee thereof, shall be held and the procedure to be followed thereat, and the number of members which shall form a quorum at a meeting under sub-section (10) of section 4;

(b) the method of appointment, the conditions of service and the scales of pay and allowances of any of the officers and other employees of the Board under sub-section (6) of section 7;

(c) generally, for the efficient conduct of the affairs of the Board.

(3) The Central Government may, by notification in the Official Gazette, modify or rescind any regulation sanctioned by it and the regulation so modified or rescinded shall have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or rescission shall be without prejudice to the validity of anything done under the regulation before its modification or rescission.

STATEMENT OF OBJECTS AND REASONS

India is one of the largest coconut producing countries in the world, with coconut cultivation spread over nearly 1.1 million hectares and an annual production of about 6,000 million nuts. By virtue of its being an important commercial crop, providing direct and indirect employment and income through a very large number of people engaged in its cultivation and in the processing industries based on coconut, it holds a unique position in the life and economy of our people, particularly in the coastal States where it is concentrated.

2. Coconut is a crop of great economic potential. Copra, oil, coir and shell products are the major coconut products of commercial importance. But except in oil milling and coir industry, no major developments have taken place in the coconut product diversification and by-product utilisation. Even copra making, a traditional rural industry, remains to be developed on modern lines. The manufacture of desiccated coconut, a product of commercial importance with world-wide demand, is still in its infancy. The new processing techniques for the conversion of wet coconut kernel into various edible products such as protein, oil, flour etc. have not yet been adopted for commercial purposes. Effective processing techniques have also to be developed for the profitable utilisation of other by-products such as shell, pith, coconut water etc.

3. The individual coconut holdings are small and invariably held by poor farmers who by themselves are not able to undertake the task of developing coconut industry as such, much less to modernise it. It is felt that an integrated development of coconut industry would boost the income and employment potential and thereby bring about a significant impact on the economic conditions of the people.

4. The Bill seeks to provide for the integrated development of the coconut industry (excluding coir and coconut oil products industry) under the control of the Union and for the establishment of a Board to be known as the Coconut Development Board. The Board shall have representatives of the concerned Ministries of the Central Government, the coconut growing States and Union territories, and the growers of coconut and coconut processing industry. It is proposed to vest the Board with adequate powers to deal with various aspects of the coconut industry.

5. The finances of the Board will consist of sums provided by the Central Government out of the proceeds of cess on copra (*vide* Copra Cess Bill, 1978), grants or loans made by the Central Government, or any person and grants or donations from the State Governments, voluntary organisations or other institutions. The Board will also borrow money, with the approval of the Central Government, from the public by the issue or sale of bonds and debentures, from any bank or any other authority, organisation or institution.

6. The Bill seeks to achieve the above objects.

NEW DELHI;
The 7th July, 1978.

SURJIT SINGH BARNALA.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. 12(2)/77-CA.I, dated the 13th July, 1978 from Shri Surjit Singh Barnala, Minister of Agriculture and Irrigation to the Secretary, Lok Sabha.]

The President, having been informed of the subject matter of the Coconut Development Board Bill, 1978, recommends under clause (1) of article 117 of the Constitution of India, the introduction of the Bill in Lok Sabha and also recommends under clause (3) of article 117 of the Constitution of India, the consideration of the Bill by Lok Sabha.

FINANCIAL MEMORANDUM

Sub-clauses (1), (3) and (4) of clause 4 of the Bill provide respectively for the establishment and constitution of the Coconut Development Board. Sub-clause (1) of clause 5 provides that the Chairman of the Board shall be entitled to such salary and allowances and be subject to such conditions of service in respect of leave, pension, and provident fund and other matters that may be fixed by the Central Government, while the allowances payable to the other members will have to be fixed by the Central Government under sub-clause (2). Clause 7 provides for the appointment of the Chief Coconut Development Officer, the Secretary and other officers and employees of the Board. The Chief Coconut Development Officer and the Secretary will be entitled to such salaries and allowances as may be determined by the Central Government. The other officers and employees of the Board will be entitled to such salaries and allowances as may be provided for by regulations under clause 20(2)(b). Provision has also been made in clause 4(8) for fixing the allowances or fees for the persons associated with the Board or co-opted to committees of the Board under sub-clause (3) of clause 9.

2. Provision has been made in clause 19(2)(k) for prescribing by rules for remuneration and other allowances to the person or persons who may be appointed by the Central Government under clause 11(2)(b) to exercise and perform the powers and duties of the Board when the Board is dissolved.

3. Clause 10 provides for the functions of the Board and these include, *inter alia*, technical, financial and other assistance for development of coconut industry, financing suitable schemes for this purpose in consultation with the Central and State Governments and assisting, encouraging, promoting or financing agricultural, technological, industrial and economic research on coconut and coconut products.

4. The aforementioned provisions of the Bill involve expenditure towards—

(a) payment of salaries, allowances, etc., of the Chairman and members of the Board, persons associated with the Board or co-opted to the committees of the Board, persons appointed to exercise the powers and duties of the Board when the Board is dissolved and officers and employees of the Board; and

(b) meeting the other administrative expenses of the Board and any other expenses authorised by or under this Bill.

5. Clause 13 of the Bill provides for the constitution of a Fund to be known as the Coconut Development Fund and the Fund is to be applied for meeting the aforementioned expenditure. The Fund will consist, *inter alia*, of the sums realised by the Central Government by way of cess on copra under the Copra Cess Bill, grants or loans made by the Central Government, any person, institution and grants and donations from the State Governments or any other institution.

6. Clause 14 empowers the Board to borrow money from the public by the issue or sale of bonds or debentures, or both, any bank or other institution or such other authority, organisation or institution, as may be approved by the Central Government. Sub-clause (2) of clause 14 provides that the Central Government will guarantee the repayment of the monies borrowed by the Board and interest thereon.

7. It is not possible at the present stage to indicate precisely the expenditure involved. However, it is estimated that a non-recurring expenditure of Rs. 2,00,000 is likely to be incurred initially on the establishment of the Board. A recurring expenditure of about Rs. 8,00,000 is likely to be incurred by the Board during 1978-79. When the Board expands its activities, its expenditure may also increase. As already mentioned, the Board will have to meet the expenditure from its own Fund and any payments made to the Board by the Central Government will have to be made only after due appropriation made by Parliament by law in that behalf.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (2) of clause 19 of the Bill empowers the Central Government to frame rules to carry out the provisions of the Bill. The matters in respect of which rules may be made, *inter alia*, relate to the powers and functions of the Chairman, Vice-Chairman, and other officers and employees of the Board, the term of office and the manner of filling of vacancies of the members, the conditions subject to which the officers and other employees shall be appointed by the Board, the manner and the purpose for which any person may be associated by the Board with its discussions, the form, the manner in which the Board shall maintain accounts, collection of statistics and the matters in respect of which the Board may undertake measures in the discharge of its functions under clause 10(m). As the rules relate generally to the matters of procedure or detail, the delegation of legislative power is of a normal character.

2. Clause 20 of the Bill empowers the Board to make regulations with the previous sanction of the Central Government not inconsistent with the provisions of the Bill for enabling the Board to discharge its functions. These matters *inter alia* relate to the times and places at which meetings of the Board and the committees under it shall be held and the procedure to be followed in this regard and the method of appointment, the conditions of service and the scales of pay of any of the officers and other employees of the Board. As the matters in respect of which a regulation may be made under clause 20 are matters of procedure and detail, the delegation of legislative power is of a normal character.

BILL No. 111 OF 1978

A Bill to provide for the imposition of cess on copra for the development of the coconut industry and for matters connected therewith.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Copra Cess Act, 1978.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short
title,
extent
and com-
mence-
ment.

2. (1) In this Act, unless the context otherwise requires,—

Defini-
tions.

(a) "Board" means the Coconut Development Board established under section 4 of the Coconut Development Board Act, 1978;

(b) "Collector" means the officer appointed by the Central Government to perform in any specified area the duties of a Collector under the provisions of this Act and the rules made thereunder, and includes any officer subordinate to that officer whom he may, by order in writing, authorise to perform his duties under those provisions;

(c) "copra" means the dry kernel of coconut and includes edible copra and desiccated coconut;

1 of 1966.

(d) "managing agent" has the meaning assigned to it in the Companies Act, 1956;

(e) "mill" means any premises in which or in any part of which, copra is crushed, or is ordinarily crushed, with the aid of power for the extraction of oil or is otherwise processed with the aid of power.

Explanation.—"Power" means electrical energy or any other form of energy, which is mechanically transmitted and is not generated by human or animal agency;

(f) "occupier", in relation to any mill, means the person who has the ultimate control over the affairs of the mill or the owner of the mill in case he is not the occupier or where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the mill;

(g) "oil" means oil extracted from copra;

(h) "prescribed" means prescribed by rules made under this Act.

(2) All other words and expressions used in this Act and not defined, but defined in the Coconut Development Board Act, 1978, shall have the meanings respectively assigned to them in that Act.

Imposition of cess.

3. (1) There shall be levied and collected as a cess, for the purposes of this Act, on copra consumed in any mill in India with a view to producing or manufacturing any goods therefrom, a duty of excise at such rate, not exceeding five rupees per quintal of copra, as the Central Government may, by notification in the Official Gazette, specify:

Provided that until such rate is specified by the Central Government, the duty of excise shall be levied and collected at the rate of sixty paise per quintal of copra.

(2) The duty of excise leviable under sub-section (1) shall be payable by the occupier of the mill in which the copra is consumed.

Application of proceeds of cess.

4. The proceeds of the duty of excise levied and collected under this Act shall first be credited to the Consolidated Fund of India, and the Central Government may, if Parliament, by appropriation made by law in this behalf, so provides, pay to the Board, from time to time, from out of such proceeds, after deducting the expenses on collection and the amount, if any, refunded under section 9, such sums of money as it may think fit for being utilised for the purposes of the Coconut Development Board Act, 1978.

Occupier to supply certain particulars to Collector.

5. The occupier of every mill shall,—

(a) if the mill was established before the commencement of this Act, within fourteen days from such commencement, and

(b) if the mill is established after the commencement of this Act, within fourteen days from such establishment,

furnish to the Collector a statement containing the following particulars, namely:—

(i) the name and situation of the mill;

(ii) the name and address of the occupier;

(iii) the address to which the communications relating to the mill may be sent; and

(iv) the total capacity of the mill.

6. (1) Every occupier of a mill shall furnish to the Collector every month a return stating the total amount of copra consumed in the mill during the preceding month.

Delivery
of
monthly
returns.

(2) The return referred to in sub-section (1) shall be furnished before the seventh day of each month together with such other information as may be prescribed.

(3) Every such return shall be made in such form and shall be verified in such manner as may be prescribed.

7. (1) On receiving any return made under section 6, the Collector shall assess the duty of excise in respect of the period to which the return relates, and if the amount has not already been paid, shall cause a notice to be served upon the occupier of the mill requiring him to make payment of the amount assessed within ten days of the service of the notice.

Collec-
tion of
cess.

(2) If the occupier of any mill fails to furnish in due time the return referred to in section 6 or furnishes a return which the Collector has reason to believe is incorrect or defective, the Collector shall assess the amount payable by him in such manner, if any, as may be prescribed, and the provisions of sub-section (1) shall thereupon apply as if such assessment had been made on the basis of a return furnished by the occupier:

Provided that, in the case of a return which he has reason to believe is incorrect or defective, the Collector shall not assess the duty of excise at an amount higher than that at which it is assessable on the basis of the return without giving to the occupier a reasonable opportunity of proving the correctness or completeness of the return.

(3) A notice under sub-section (1) may be served on the occupier of a mill either by registered post or by delivering or tendering it to the occupier or his agent at the mill.

8. (1) Any occupier of a mill who is aggrieved by an assessment made under section 7 may, within three months of service of the notice referred to in sub-section (1) of that section, appeal to such authority as the Central Government may, by notification in the Official Gazette, appoint in this behalf, for the cancellation or modification of the assessment and, on such appeal, the said authority may cancel or modify the assessment and order the refund to such occupier of the whole or part, as the case may be, of the amount paid thereunder:

Finality
of assess-
ment.

Provided that the authority so appointed shall not be inferior in rank to the Collector by whom the assessment was made.

(2) The appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months, allow it to be presented within a further period of one month.

(3) Where the appellate authority is of opinion that any duty of excise has been short-levied, no order enhancing the duty of excise shall be

made unless the appellant has been given notice to show cause, within one month from the date of service thereof, against the proposed order.

(4) The Central Government may, on the application of any person aggrieved by any order made under sub-section (1) or sub-section (3), cancel or modify such order, if such application is made within six months from the date of the order made under sub-section (1) or sub-section (3), as the case may be.

(5) The Central Government may, if it is satisfied that the applicant was prevented by sufficient cause from presenting the application within the aforesaid period of six months, allow it to be presented within a further period of one month.

(6) The decision of the Central Government under sub-section (4) and subject to the decision of the Central Government, the decision of the appellate authority under sub-section (1), shall be final.

Refund of
cess on
oil ex-
ported
from
India.

9. Where any cess on copra is levied and collected under this Act and the oil extracted from the whole or any part of such copra is exported from India, then, the Central Government shall, subject to such conditions as may be prescribed, refund so much amount of cess as is equal to the cess collected in respect of the copra from which the oil so exported was extracted, to the occupier of the mill from whom such cess was collected, whether or not such copra is produced in or imported into India.

Recovery
of sums
due to
Govern-
ment.

10. Where any duty of excise demanded from any person or any other sum payable by any person under this Act is not paid,—

(a) the Collector may deduct the amount so payable from any money owing to such person which may be under the control of the Collector or any other officer; or

(b) the Collector may recover the amount so payable by detaining and selling any goods belonging to such person which are under the control of the Collector or any other officer; or

(c) if the amount cannot be recovered from such person in the manner provided in clause (a) or clause (b), the Collector may prepare a certificate signed by him specifying the amount due from such person and send it to the Collector of the district in which such person owns any property or resides or carries on his business and the said Collector shall, on receipt of such certificate, proceed to recover from the said person the amount specified therein as if it were an arrear of land revenue.

Power to
inspect
mills
and
take
copies of
account.

11. (1) The Collector or any officer empowered by a general or special order of the Central Government in this behalf shall have free access at all reasonable times during working hours to any mill or any part of a mill.

(2) The Collector or any other officer may, at any time during working hours, with or without notice to the occupier, examine the purchase, sale and stock records and accounts of any mill and take copies of or extracts from all or any of the said records or accounts for the purpose

of testing the accuracy of any return or of informing himself as to the particulars regarding which information is required for the purposes of this Act or any rules made thereunder:

Provided that nothing in this section shall be deemed to authorise the examination of any description or formulae of any trade process.

12. (1) All such copies and extracts and all information acquired by a Collector or any other officer from any inspection of any mill or from any return submitted under this Act shall be treated as confidential.

Information acquired to be confidential.

(2) If the Collector or any such officer discloses to any person, other than a superior officer, any such information as aforesaid, without the previous sanction of the Central Government or such other authority as may be prescribed, he shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine:

Provided that nothing in this section shall apply to the disclosure of any such information for the purpose of a prosecution in respect of the making of a false return under this Act.

1 of 1944.

13. The provisions of the Central Excises and Salt Act, 1944, and the rules made thereunder including those relating to refunds and exemptions from duty, shall, so far as may be, apply in relation to the levy and collection of duty of excise on copra under this Act, as they apply in relation to the levy and collection of duty payable to the Central Government under that Act.

Provisions of Central Excises and Salt Act, 1944, etc., to apply.
Offences.

14. (1) Whoever—

(a) evades the payment of any duty of excise payable under this Act, or

(b) fails to furnish any return or information which it is his duty to furnish as provided by or under this Act, or furnishes a return or information which is false in material particulars or which he does not believe to be true, or

(c) obstructs the Collector or any other officer in the performance of his duties under this Act or any rules made thereunder,

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

(2) Any court trying an offence under this Act may direct that the copra in respect of which it is satisfied that an offence punishable under this Act has been committed, shall be forfeited to Government and may also direct that all packages or coverings in which the copra is contained and every animal, vehicle, vessel or other conveyance used in carrying such copra shall be forfeited to Government.

15. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

Limitation
of prose-
cution.

16. No prosecution for any offence punishable under this Act shall be instituted against any person except by, or with the consent of, the Collector.

Composi-
tion of
offences.

17. Any offence punishable under this Act may, either before or after the institution of the prosecution, be compounded by the Collector or any other officer authorised by him in this behalf on payment to the Central Government, for the purposes of this Act, of such sum as the Collector or such officer, as the case may be, thinks fit.

Protection
of action
taken in
good
faith.

18. No suit, prosecution, or legal proceeding shall lie against the Central Government or any person authorised by the Central Government for anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

Power to
make
rules.

19. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) information to be furnished by an occupier of a mill in the monthly return under sub-section (2) of section 6;

(b) the form of the monthly return which every occupier of a mill shall submit to the Collector and the manner in which such return shall be verified under sub-section (3) of section 6;

(c) the manner in which assessment of duty of excise shall be made where no return has been furnished or the return which has been furnished is believed by the Collector to be incorrect or defective under sub-section (2) of section 7;

(d) the conditions subject to which the refund of amount is made under section 9;

(e) the authority without the previous sanction of which information may not be disclosed under sub-section (2) of section 12;

(f) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

20. In the Produce Cess Act, 1966,—

Amend-
ment of
Act 15 of
1966.

(a) in sub-clause (ii) of clause (g) of section 2,—

(i) the words “copra or”, in both the places where they occur, shall be omitted;

(ii) the words “as the case may be,” shall be omitted;

(b) in section 6, the words “or copra”, in both the places where they occur, shall be omitted;

(c) in the Second Schedule, serial number 2 and the entries relating thereto in columns 2, 3 and 4 shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The Bill is complementary to the Coconut Development Board Bill, 1978. The Coconut Development Board Bill, 1978 seeks to provide for the development under the control of the Union, of the Coconut industry (excluding coir and coconut oil products industry). For the purpose, the Bill seeks to provide for the establishment of a Board to be called the Coconut Development Board. In order to ensure that the said Board has the necessary resources to discharge its functions, the Bill seeks to provide for the imposition of a cess on copra. At present the cess on copra is being levied under the Produce Cess Act, 1966 (15 of 1966) at the rate of 60 paise per quintal. The Bill empowers the Central Government to levy cess on copra at a maximum rate of Rs. 5 per quintal. In view of this provision, copra is being excluded from the Second Schedule to the Produce Cess Act, 1966 by suitably amending the Act. The intention is to make over, after due appropriation by Parliament, by law, such amount as the Central Government may deem fit, to the Coconut Development Board, so as to enable it to discharge its functions effectively.

2. The Bill seeks to achieve the above objects.

NEW DELHI;
The 7th July, 1978.

SURJIT SINGH BARNALA.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE
CONSTITUTION OF INDIA

[Copy of letter No. 12(2)/77-CA. I, dated the 13th July, 1978 from Shri Surjit Singh Barnala, Minister of Agriculture and Irrigation to the Secretary, Lok Sabha.]

The President, having been informed of the subject matter of the Copra Cess Bill, 1978, recommends under clause (1) of article 117 of the Constitution of India, the introduction of the Bill in Lok Sabha and also recommends under clause (3) of article 117 of the Constitution of India, the consideration of the Bill by Lok Sabha.

FINANCIAL MEMORANDUM

With a view to ensuring that the Coconut Development Board established under the Coconut Development Board Bill, 1978, has necessary resources to discharge its functions, this Bill seeks to provide for levy of cess on copra, a duty of excise, at such rate not exceeding Rs. 5 per quintal as the Central Government may, by notification in the Official Gazette, specify.

2. The proceeds of the aforementioned cess will be paid into the Consolidated Fund of India. Under clause 4 of the Bill the Central Government may, if Parliament, by appropriation made by law, in this behalf, so provides, pay to the said Board from time to time, out of such proceeds, after deducting the expenses on collection, such sums of money as that Government may think fit.

3. The collection of the aforementioned cess will involve some expenditure from the Consolidated Fund of India. It is not possible, at this stage, to estimate the amount of such expenditure. However, it is tentatively estimated that the cost of collection of cess would be about 2 per cent. of the proceeds. The total proceeds from this cess collection would be about Rs. 80 lakhs to Rs. 100 lakhs. The expenses of collection would be about Rs. 1.60 lakhs to Rs. 2 lakhs. As only the balance of the proceeds, after deducting the cost of collection, may be utilised for making payments to the Coconut Development Board, there will, in effect, be no net out-go from the Consolidated Fund of India. The expenditure on the collection of the cess will be of a recurring nature.

4. The Bill does not involve any other expenditure whether of a recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 19 of the Bill seeks to empower the Central Government to make rules to carry out the provisions of the Bill. The matters in respect of which rules may be so made relate, *inter alia*, to the conditions subject to which the refund of amounts are made under clause 9; information to be furnished by the occupier of a mill in the monthly return under sub-clause (2) of clause 6; the form of the monthly return which every occupier of a mill may submit to the Collector and the manner in which such return may be verified under sub-clause (3) of clause 6; the manner in which assessment of duty of excise shall be made where no return has been furnished or the return which has been furnished is believed by the Collector to be incorrect or defective under sub-clause (2) of clause 7; and the authority without the previous sanction of which information may not be disclosed under sub-clause (2) of clause 12. As the matters in respect of which rules may be made pertain to matters of procedure or detail and as the maximum limits of punishments which may be provided for by rules are laid down in the clause itself, the delegation of legislative power is of a normal character.

BILL No. 109 OF 1978

A Bill to amend the Water (Prevention and Control of Pollution) Act, 1974.

WHEREAS, in pursuance of clause (1) of article 252 of the Constitution, the Water (Prevention and Control of Pollution) Act, 1974, had been passed by Parliament;

AND WHEREAS from the practical experience gained in the working of the aforesaid Act it is considered necessary to make certain amendments thereto;

AND WHEREAS, in pursuance of clause (1) of article 252 of the Constitution read with clause (2) thereof, resolutions have been passed by the Legislative Assemblies of the States of Assam, Haryana and West Bengal to the effect that the said Act should be amended by an Act of Parliament for the purposes hereinafter appearing.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Water (Prevention and Control of Pollution) Amendment Act, 1978.

(2) It applies, in the first instance, to the whole of the States of Assam, Haryana and West Bengal and the Union territories; and it shall apply to such other State which adopts this Act by resolution passed in that

Short
title, ap-
plication
and com-
mence-
ment.

behalf under clause (1) of article 252 of the Constitution read with clause (2) thereof.

(3) It shall come into force, at once in the States of Assam, Haryana and West Bengal and the Union territories, and in any other State which adopts this Act under clause (1) of article 252 of the Constitution read with clause (2) thereof on the date of such adoption and any reference in section 22 of this Act to the commencement of this Act shall, in relation to any State or Union territory, mean the date on which this Act comes into force in such State or Union territory.

Amend-
ment of
section 2.

2. In section 2 of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as the principal Act),—

6 of 1974

(a) after clause (d), the following clause shall be inserted, namely:—

‘(dd) “outlet” includes any conduit pipe or channel, open or closed, carrying sewage or trade effluent or any other holding arrangement which causes, or is likely to cause, pollution;’

(b) after clause (g), the following clause shall be inserted, namely:—

‘(gg) “sewer” means any conduit pipe or channel, open or closed, carrying sewage or trade effluent;’.

Amend-
ment of
section 3.

3. In section 3 of the principal Act, in sub-section (2),—

(a) in clause (a), for the words “matters relating to the use and conservation of water resources or the prevention and control of water pollution”, the words “matters relating to environmental protection” shall be substituted;

(b) in clause (b), for the words “five officials”, the words “such number of officials, not exceeding five,” shall be substituted;

(c) in clause (d), for the words “three non-officials”, the words “such number of non-officials, not exceeding three,” shall be substituted;

(d) in clause (f), for the words “and having administrative experience”, the words “and having practical experience in respect of matters relating to environmental protection” shall be substituted.

Amend-
ment of
section 4.

4. In section 4 of the principal Act,—

(a) in sub-section (1), the brackets and words “(being a date not later than six months of the commencement of this Act in the State)” shall be omitted and shall be deemed always to have been omitted;

(b) in sub-section (2),—

(i) in clause (a),—

(1) the word “full-time” shall be omitted;

(2) for the words “matters relating to the use and conservation of water resources or the prevention and control of water pollution”, the words “matters relating to environmental protection” shall be substituted;

(3) the following proviso shall be inserted at the end, namely:—

“Provided that the Chairman may be either whole-time or part time as the State Government may think fit;”;

(ii) in clause (b), for the words “five officials”, the words “such number of officials, not exceeding five,” shall be substituted;

(iii) in clause (c) for the words “five persons”, the words “such number of persons, not exceeding five,” shall be substituted;

(iv) in clause (d), for the words “three non-officials”, the words “such number of non-officials, not exceeding three,” shall be substituted;

(v) in clause (f), for the words “and having administrative experience”, the words “and having practical experience in matters relating to environmental protection” shall be substituted.

5. In section 5 of the principal Act,—

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

Amend-
ment of
section 5.

“(2) The term of office of a member of a Board nominated under clause (b) or clause (e) of sub-section (2) of section 3 or clause (b) or clause (e) of sub-section (2) of section 4 shall come to an end as soon as he ceases to hold the office under the Central Government or the State Government or, as the case may be, the company or corporation owned, controlled or managed by the Central Government or the State Government, by virtue of which he was nominated.”;

(b) in sub-section (5), for the words, brackets, letters and figures “or where he is nominated under clause (c) of sub-section (2) of section 3 or under clause (c) of sub-section (2) of section 4, if he ceases to be a member of the State Board, or as the case may be, of the local authority”, the following shall be substituted, namely:—

“or where he is nominated under clause (c) or clause (e) of sub-section (2) of section 3 or under clause (c) or clause (e) of sub-section (2) of section 4, if he ceases to be a member of the State Board or of the local authority or, as the case may be, of the company or corporation owned, controlled or managed by the Central Government or the State Government and such vacation of seat shall, in either case, take effect from such date as the Central Government or, as the case may be, the State Government may, by notification in the Official Gazette, specify”.

6. In section 10 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

Amend-
ment of
section 10.

“(3) A person associated with the Board under sub-section (1) for any purpose shall be paid such fees and allowances, for attending its meetings and for attending to any other work of the Board, as may be prescribed.”.

Insertion
of new
section
11A.

7. After section 11 of the principal Act, the following section shall be inserted, namely:—

Delega-
tion of
powers to
Chairman.

“11A. The Chairman of a Board shall exercise such powers and perform such duties as may be prescribed or as may, from time to time, be delegated to him by the Board.”.

Amend-
ment of
section 12.

8. In section 12 of the principal Act,—

(a) in sub-section (3), the words “and the rules so made may provide for the salaries and allowances and other terms and conditions of service of such officers and employees” shall be omitted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) The method of recruitment and the terms and conditions of service (including the scales of pay) of the officers (other than the member-secretary) and other employees of the Central Board or a State Board shall be such as may be determined by regulations made by the Central Board or, as the case may be, by the State Board:

Provided that no regulation made under this sub-section shall take effect unless,—

(a) in the case of a regulation made by the Central Board, it is approved by the Central Government; and

(b) in the case of a regulation made by a State Board, it is approved by the State Government.”.

Amend-
ment of
section 14.

9. In section 14 of the principal Act,—

(a) in sub-section (1),—

(i) in clause (a), for the words “matters relating to the use and conservation of water resources or the prevention and control of water pollution”, the words “matters relating to environmental protection” shall be substituted;

(ii) in clause (f), for the words “and having administrative experience”, the words “and having practical experience in respect of matters relating to environmental protection” shall be substituted;

(b) in sub-section (2),—

(i) in clause (a), for the words “matters relating to the use and conservation of water resources or the prevention and control of water pollution”, the words “matters relating to environmental protection” shall be substituted;

(ii) in clause (f), for the words “and having administrative experience”, the words “and having practical experience in respect of matters relating to environmental protection” shall be substituted.

10. In section 21 of the principal Act, for sub-section (4), the following sub-section shall be substituted, namely:—

Amend-
ment of
section 21.

“(4) When a sample of any sewage or trade affluent is taken for analysis under sub-section (1) and the person taking the sample serves on the occupier or his agent, a notice under clause (a) of sub-section (3) and the occupier or his agent wilfully absents himself, then,—

(a) the sample so taken shall be placed in a container which shall be marked and sealed and shall also be signed by the person taking the sample and the same shall be sent forthwith by such person for analysis to the laboratory referred to in sub-clause (i) or sub-clause (ii), as the case may be, of clause (e) of sub-section (3) and such person shall inform the Government analyst appointed under sub-section (1) or sub-section (2), as the case may be, of section 53, in writing about the wilful absence of the occupier or his agent; and

(b) the cost incurred in getting such sample analysed shall be payable by the occupier or his agent and in case of default of such payment, the same shall be recoverable from the occupier or his agent, as the case may be, as an arrear of land revenue or of public demand;

Provided that no such recovery shall be made unless the occupier or, as the case may be, his agent has been given a reasonable opportunity of being heard in the matter.”.

11. In section 23 of the principal Act, in sub-section (2),—

Amend-
ment of
section 23.

5 of 1898.
2 of 1974.

(a) for the words and figures “the Code of Criminal Procedure, 1898”, the words and figures “the Code of Criminal Procedure, 1973” shall be substituted;

(b) for the word and figures “section 98”, the word and figures “section 94” shall be substituted.

12. In section 25 of the principal Act,—

Amend-
ment of
section 25.

(a) in sub-section (1), for the words “stream or well” at both the places where they occur, the words “stream or well or sewer or on land” shall be substituted;

(b) in sub-section (2), after the words, brackets and figure “under sub-section (1)”, the words “shall be accompanied with such fees as may be prescribed and” shall be inserted;

(c) in sub-section (4), in clause (a), for the words “stream or well”, the words “stream or well or sewer or on land” shall be substituted;

(d) in sub-section (5), for the words “stream or well”, the words “stream or well or sewer or on land” shall be substituted.

13. In section 26 of the principal Act,—

Amend-
ment of
section 26.

(a) for the words “stream or well”, the words “stream or well or sewer or on land” shall be substituted;

(b) for the words "shall be made within a period of three months of the constitution of the State Board", the words "shall be made on or before such date as may be specified by the State Government by notification in this behalf in the Official Gazette" shall be substituted.

Amend-
ment of
section 27.

14. In section 27 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) A State Board may from time to time review—

(a) any condition imposed under section 25 (other than a condition to be satisfied before an outlet is brought into use or a new discharge is made), or section 26 and may serve on the person using the outlet or making the discharge, as the case may be, a notice, making any reasonable variation of or revoking any such condition;

(b) the refusal of any consent referred to in sub-section (1) of section 25 or section 26 or the grant of such consent without any condition, and may make such orders as it deems fit."

Amend-
ment of
section 28.

15. In section 28 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) An appellate authority shall consist of a single person or three persons, as the State Government may think fit, to be appointed by that Government."

Amend-
ment of
section 36.

16. In section 36 of the principal Act,—

(a) in sub-section (1), after the word "benefactions", the word "fees" shall be inserted;

(b) in sub-section (2), after the words "under this Act", the words "and, where any law for the time being in force relating to the prevention, control or abatement of air pollution provides for the performance of any function under such law by the Central Board, also for performing its functions under such law" shall be inserted.

Amend-
ment of
section 37.

17. In section 37 of the principal Act,—

(a) in sub-section (1), after the word "benefactions", the word "fees" shall be inserted;

(b) in sub-section (2), after the words "under this Act", the words "and, where any law for the time being in force relating to the prevention, control or abatement of air pollution provides for the performance of any function under such law by the State Board, also for performing its functions under such law" shall be inserted.

Amend-
ment of
section 39.

18. In section 39 of the principal Act, in sub-section (1), for the words "six months", the words "nine months" shall be substituted.

Amend-
ment of
section 49.

19. In section 49 of the principal Act,—

(a) in sub-section (1), for the words "Presidency Magistrate or a Magistrate", the words "Metropolitan Magistrate or a Judicial Magistrate" shall be substituted;

(b) in sub-section (2),—

5 of 1898.
2 of 1974.

(i) for the words and figures “section 32 of the Code of Criminal Procedure, 1898”, the words and figures “section 29 of the Code of Criminal Procedure, 1973” shall be substituted;

(ii) for the words “Magistrate of the first class or for any Presidency Magistrate”, the words “Judicial Magistrate of the first class or for any Metropolitan Magistrate” shall be substituted.

20. In section 63 of the principal Act,—

Amend-
ment of
section
63.

(a) in sub-section (2),—

(i) for clause (d), the following clause shall be substituted, namely:—

“(d) the manner in which and the purposes for which persons may be associated with the Central Board under sub-section (1) of section 10 and the fees and allowances payable to such persons;”;

(ii) clauses (h) and (i) shall be omitted;

(b) in sub-section (3), for the words “before the expiry of the session in which it is so laid or the successive sessions aforesaid”, the words “before the expiry of the session immediately following the session or the successive sessions aforesaid” shall be substituted.

21. In section 64 of the principal Act, in clause (d) of sub-section (2), the words “and the fees and allowances payable to such persons” shall be inserted at the end.

Amend-
ment of
section 64.

22. Notwithstanding anything contained in section 4 of the principal Act, as it stood immediately before the commencement of this Act, every State Board for the prevention and control of water pollution constituted under that section after the expiry of a period of six months of the commencement of the principal Act in the State concerned, shall be deemed to have been validly constituted and accordingly anything done or any action taken by such State Board before the commencement of this Act shall be deemed to have been validly done or taken and no such thing or action shall be called in question in any court merely on the ground that such State Board was constituted after the expiry of the period specified therefor under the said section 4.

Valida-
tion.

STATEMENT OF OBJECTS AND REASONS

In the process of implementation of the Water (Prevention and Control of Pollution) Act, 1974, in various States, certain drawbacks have come to the notice of the Government and consequently it has become necessary to make certain amendments in the Act.

2. Section 4 of the Act requires that those State Governments which have adopted the Act should set up the State Boards within six months from the date of adoption. One of the fifteen States which have so far adopted the Act, has not set up the State Board within this time limit. It has been felt that the prescribed time limit of six months for constitution of the State Boards may be done away with. Further, it has come to the notice of the Government that some State Governments have set up the State Boards after the prescribed time limit of six months. It is, therefore, necessary to regularise the setting up of these Boards and also the action of the State Boards constituted after the prescribed time limit of six months.

3. Moreover, certain States are finding it difficult to provide a full-time Chairman for the State Boards. It is, therefore, proposed to amend the Act to provide for the appointment of a Chairman of the State Board either on full-time or on part-time, depending on the specific situation and as the State Government thinks fit.

4. It is felt that there should be an integrated approach for tackling the water and air pollution problem. It is, therefore, proposed that the existing Boards for the Prevention and Control of Water Pollution should also be authorised to perform functions relating to the prevention, control and abatement of air pollution. The Government have already introduced a Bill, namely, the Air (Prevention and Control of Pollution) Bill, 1978, in the Lok Sabha on the 17th April, 1978. It has thus become necessary to authorise the Central Board and the State Boards for the Prevention and Control of Water Pollution to spend from their funds for performing functions relating to prevention, control and abatement of air pollution also.

5. In addition, certain other minor amendments are also proposed in the Bill.

NEW DELHI;
The 12th July, 1978.

SIKANDER BAKHT.

FINANCIAL MEMORANDUM

Clause 16 of the Bill empowers the Central Board for the Prevention and Control of Water Pollution to expend its funds also on the activities connected with the prevention, control or abatement of air pollution. It is estimated that the total expenditure on this account shall be Rs. 10.78 lakhs. Out of this amount, the recurring expenditure shall be to the extent of Rs. 5.73 lakhs and the balance shall be non-recurring expenditure. Even this expenditure may be off-set by the revenue expected from the Water (Prevention and Control of Pollution) Cess Act, 1977.

MEMORANDUM REGARDING DELEGATED LEGISLATION

By clause 8 a new sub-section (3A) is being inserted in section 12 of the Act empowering the Central Board or, as the case may be, State Board to make regulations in respect of the method of recruitment and the terms and conditions of service (including scales of pay) of the officers (other than the member-secretary) and other employees of the Central Board or, as the case may be, State Board.

2. Clause 20 and clause 21 of the Bill seek to amend section 63 and section 64 respectively. These amendments empower the Central Government and the State Governments to make rules with respect to the fees and allowances payable to the persons who are associated with the Central Board and the State Boards respectively.

3. The matters in relation to which regulations or rules which may be made are matters of procedure and administrative detail and, as such, the delegation of legislative power is of a normal character.

AVTAR SINGH RIKHY,
Secretary.